

EXECUTIVE ORDER NO. 11- 18

WHEREAS, in 1998, the United States Congress enacted and the President signed the Rehabilitation Act Amendments of 1998, Pub. L. No. 105-220, which amended the Rehabilitation Act of 1973, to “ensure that the federal government plays a leadership role in promoting the employment of individuals with disabilities for meaningful and gainful employment and independent living” and;

WHEREAS, to receive federal financial assistance under the Act, a state is required to establish a statewide independent living council that meets the requirements set forth in Section 705 of the Act (29 U.S.C. § 796d, and 34 C.F.R. § 364.21), including that the council not be established as an entity within a state agency, and that its members be appointed by the governor;

WHEREAS, because Article V, Section 6 of the Hawaii State Constitution prescribes that “[a]ll executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments,” and to satisfy Section 705 of the Act, Hawaii’s statewide independent living council must be a private organization;

WHEREAS, to “facilitate conformance of [Hawaii’s] law to federal law to ensure eligibility for federal financial assistance for Independent Living Services and Centers,” Conf. Comm. Rept. No. 21 to H.B. No. 1103, Haw. H.J. at 1584 (2009), the Legislature repealed the law that established Hawaii’s statewide independent living council within the Department of Human Services, see Act 97,

A Bill for an Act Relating to Federal Financial Assistance for Independent Living Services and Centers, Sess. Laws of Hawaii at 247 (2009), and noted in S. Stand. Comm. Rept. No. 1320 that Hawaii's council could "instead be established as part of the Title VII State Plan that each state must have in place to receive federal funds," Haw. S.J. at 1484;

WHEREAS, Haw. Rev. Stat. § 29-13 authorizes the Governor to "accept on behalf of the State, the provisions of any act of Congress making grants or allotments of federal aid moneys available for expenditure in the State";

NOW, THEREFORE, I, Neil Abercrombie, Governor of Hawaii, in furtherance of the purposes of Act 97, do hereby order as follows to enable the State to continue to be eligible to receive federal financial assistance under the Act:

1. For purposes of satisfying the requirements of Section 705 of the Act (29 U.S.C. § 796d), Hawaii's statewide independent living council ("Council") shall be a private nonprofit organization that :
 - a. Is incorporated under the laws of the State;
 - b. Has been determined and designated to be a nonprofit organization by the Internal Revenue Service;
 - c. Is registered as a nonprofit corporation at the Department of Commerce and Consumer Affairs;
 - d. Has written bylaws or policies that describe the manner in which it shall fulfill its duties and responsibilities, and conduct its activities;

- e. Complies with all applicable federal and state laws, including Haw. Rev. Stat. ch. 414D;
- f. Does not use state funds for entertainment or lobbying activities;
- g. Allows full access to its records, reports, files, and other related documents and information to the Commissioner of the Federal Rehabilitation Services Administration ("Commissioner"); and
- h. Is headed by a board appointed by the Governor to no more than two consecutive terms of three years, and includes at least:
 - (1) One director of a center for independent living chosen by the directors of all centers for independent living in the State;
 - (2) A nonvoting representative from the Vocational Rehabilitation and Services for the Blind Division ("Division") of the Department of Human Services;
 - (3) Nonvoting representatives from other state agencies that provide services for individuals with disabilities; and
 - (4) Additional voting members, a majority of whom are individuals with disabilities and not employed by any state agency or center for independent living, who are individuals with disabilities, representatives of centers for independent living, parents and guardians of individuals with disabilities, advocates of and for individuals with disabilities, representatives from private businesses, representatives from organizations that provide services for individuals with

disabilities, and who provide statewide representation, represent a broad range of individuals with disabilities from diverse backgrounds, and are knowledgeable about centers for independent living and independent living services.

2. The terms of the initial members of the board of the Council shall be for such fewer number of years as will provide for the expiration of terms on a staggered basis. A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term.

3. The chairperson of the board shall be selected by the voting members of the board annually.

4. The Council shall

- a. Jointly with the Division, develop and sign the State Plan required by the Act;
- b. Monitor, review, and evaluate the implementation of the State Plan;
- c. Coordinate activities with the State Rehabilitation Council and other organizations that address the needs of specific disability populations and issues under other Federal law;
- d. Ensure that all regularly scheduled Council meetings are open to the public and sufficient advance notice shall be provided; and
- e. Submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records,

and afford such access to such records, as the Commissioner finds necessary to verify such reports.

5. The Council may hold hearings and forums as the Council may determine to be necessary to carry out its duties.

6. The Council shall prepare, in conjunction with the Division, a plan for the use of resources made available through the Act and from any other public or private source, including staff and personnel, as may be necessary and sufficient to carry out the Council's functions. The resource plan shall, to the extent possible, rely on the resources in existence during the period of implementation of the resource plan.

7. The Council shall, consistent with state law, supervise and evaluate staff and other personnel as may be necessary to carry out its functions.

8. While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the Division or any other agency or office of the State that would create a conflict of interest.

9. The Council may use resources made available through the Act and from any other public or private source to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

10. The Statewide Independent Living Council of Hawaii, the private, nonprofit organization that has served as the State's Council since 1998, satisfies the requirements of Section 705 of the Act (29 U.S.C. § 796d, and 34 C.F.R. § 364.21) and this Executive Order, and is designated to serve as the State's Council, effective immediately.

11. Hereafter, as deemed necessary by the Governor, a new Council may be designated by the Governor, after a notice of intent to designate a different organization to serve as the State's Council inviting organizations interested in serving as the State's Council, to submit written proposals to the Governor for that purpose is published and all written proposals are reviewed and considered.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Hawaii.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 9th day of
June, 2011.



NEIL ABERCROMBIE
Governor of Hawaii

APPROVED AS TO FORM:



DAVID M. LOUIE
Attorney General